

This Page Is Inserted by IFW Operations
and is not a part of the Official Record

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

IMAGES ARE BEST AVAILABLE COPY.

As rescanning documents *will not* correct images,
Please do not report the images to the
Image Problem Mailbox.

FACSIMILE COVER SHEET

Date: May 3, 2004

To: Examiner A. Lewis
Group Art Unit: 3743
Fax No: 703-746-3384From: Kent E. Genin
Tel. No: 312-321-7732Serial No.: 09/409,792
Client No: 6298/308No. of Pages
(inc. this page): 39Confirmation Copy To Follow: Yes ☐ No ☒IF YOU HAVE ANY PROBLEMS RECEIVING THIS MESSAGE,
PLEASE CALL 312-321-4200 AND ASK FOR: Michelle Hoffman X4380

THIS MESSAGE IS INTENDED ONLY FOR THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. IT MAY CONTAIN PRIVILEGED, CONFIDENTIAL, ATTORNEY WORK PRODUCT, OR TRADE SECRET INFORMATION WHICH IS EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAWS. IF YOU ARE NOT THE INTENDED RECIPIENT, OR AN EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE (AND ALL COPIES) TO US BY MAIL AT THE ABOVE ADDRESS. WE WILL REIMBURSE YOU FOR POSTAGE.

A Professional Corporation
Intellectual Property AttorneysNBC Tower - Suite 3600
455 N. Cityfront Plaza Drive
Chicago, Illinois 60611-5599
Facsimile 312-321-4299
Telephone 312-321-4200Indianapolis, IN
Ann Arbor, MI
San Jose, CA
Arlington, VA**COVER MESSAGE:**

Dear Examiner Lewis:

Pursuant to our telephone discussion, enclosed please find the Information Disclosure Statements I mentioned that were not considered in the first Office Action mailed March 29, 2004. Also enclosed please find copies of the return receipt post cards as evidence of receipt at the U.S. Patent Office. Also enclosed is a copy of reference E2 (EP 0 139 363 A1). The remaining references (E1 from Fourth Supplemental Information Disclosure Statement filed January 7, 2004 and A1-A16 from Information Disclosure Statement filed September 30, 1999) are U.S. references and have not been enclosed as it is my understanding that you have convenient access to electronic versions of these documents. If, however, hard copies of these cases would be of assistance please let me know and I will immediately provided hard copies.

Respectfully submitted,


Kent E. Genin

"Express Mail" mailing label number
EL402612973US

Date of Deposit September 30, 1999.

REQUEST FOR FILING A CONTINUING PATENT APPLICATION UNDER 37 CFR § 1.53(b)(1)

Case No.	ANTICIPATED CLASSIFICATION OF THIS APPLICATION		PRIOR APPLICATION EXAMINER	ART UNIT
6298/308	CLASS 128	SUBCLASS 200.220	A. Lewis	3761

Address to:
Assistant Commissioner for Patents
Washington, DC 20231

This is a request for filing a ☒ continuation ☐ divisional application under 37 CFR § 1.53(b)(1), of pending prior application number 08/842,956, filed on April 25, 1997, entitled EXHALATION VALVE FOR FACE MASK WITH SPACER CHAMBER CONNECTION, claiming priority of U.S. Serial No. 08/270,752, filed on July 5, 1994.

- ☒ Copy of the Prior application, including 21 pages of Application, which includes two sheets of drawings as filed with application number 08/842,956.
- ☒ Two (2) new sheets of formal drawings are enclosed (Figs. 1-12).
- ☒ Copy of the Declaration filed in the Prior applications.
- ☒ Information Disclosure Statement and copies of Information Disclosure Statement and Examiner-Initialed PTO Form 1449 previously filed in 08/842,956.

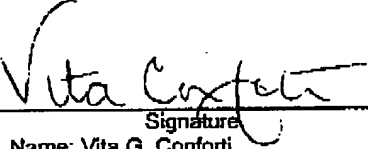
CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
	TOTAL CLAIMS (37 CFR 1.16(c))	28 - 20 =	8	x \$ 18 =	\$144
	INDEPENDENT CLAIMS (37 CFR 1.16(b))	9 - 3 =	6	x \$ 78 =	\$468
	MULTIPLE DEPENDENT CLAIMS (if applicable) (37 CFR 1.16(d))			+ \$260 =	\$
				BASIC FEE (37 CFR 1.16(a))	\$760
				Total of above Calculations =	\$
	Reduction by 50% for filing by small entity (Note 37 CFR 1.9, 1.27, 1.28)				\$
				TOTAL =	\$1,372.00

- ☐ A verified statement to establish small entity status under 37 CFR 1.9 and 1.27
 - ☐ is enclosed.
 - ☐ was filed in prior application number _____ and such status is still proper and desired (37 CFR 1.28(a)).
- ☒ The Assistant Commissioner is hereby authorized to charge any fees which may be required under 37 CFR 1.16 and 1.17, or credit any overpayment to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.
- ☒ Enclosed is a check for \$1,372.00 to cover the filing fees.
- ☐ Cancel in this application original claims 16-27, 30 and 31 of the prior application and otherwise enter the attached preliminary amendment before calculating the filing fee. (At least one original independent claim must be retained for filing purposes).
- ☒ The inventors of the invention being claimed in this application are: MARTIN P. FOLEY and ROBERT MORTON.

10. ☐ This application is being filed by less than all the inventors named in the prior application. In accordance with 37 CFR 1.63(d)(2), the Assistant Commissioner is requested to delete the name(s) of the following person or persons who are not inventors of the invention being claimed in this application: _____.
11. ☒ Amend the specification by inserting before the first line the sentence: "This application is a ☒ continuation ☐ division of application number 08/842,956, filed April 25, 1997, (pending), claiming priority of U.S. Serial No. 08/270,752, filed on July 5, 1994, which applications are hereby incorporated by reference."
12. ☐ Priority of foreign application number _____, filed on _____ in _____ is claimed under 35 U.S.C. 119.
☐ The certified copy has been filed in prior application number _____, filed _____.
13. ☒ A preliminary amendment is enclosed.
14. ☒ The prior application is assigned of record to Trudell Medical Limited.
15. ☐ Also enclosed: _____.
16. ☐ The power of attorney in the prior application is to: .
a. ☐ The power appears in the original papers in the prior application.
b. ☐ Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.
c. ☒ Address all future correspondence to: (may only be completed by applicant, or attorney or agent of record.)

September 30, 1999
Date

Vita G. Conforti
BRINKS HOFER GILSON & LIONE
P.O. BOX 10396
CHICAGO, IL 60610
(312)321-4200


Signature
Name: Vita G. Conforti
Reg. No. 39,639

- ☐ Inventor(s)
☐ Assignee of complete interest
☒ Attorney or agent of record
☐ Filed under 37 CFR 1.34(a)
Registration Number if acting under 37 CFR 1.34(a): _____.

EXPRESS MAIL NO.: EL402612973USDATE OF MAILING: September 30, 1999Our Case No. 6298/308**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Application Of:)
FOLEY ET. AL.) Previously-
Serial No.: Not Yet Assigned) Assigned Examiner: A. Lewis
Filing Date: Herewith) Previously-Assigned
FOR: EXHALATION VALVE FOR FACE MASK) Group Art Unit No.: 3761
WITH SPACER CHAMBER CONNECTION)

INFORMATION DISCLOSURE STATEMENT

Assistant Commissioner for Patents
Washington, D.C. 20231
ATTN: BOX CONTINUATION

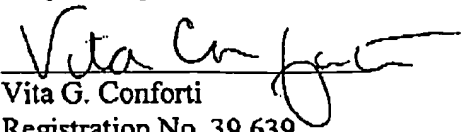
Sir:

Pursuant to the obligation under 37 C.F.R. 1.56 and in conformance with 37 C.F.R. 1.97-1.99, Applicants hereby submit references A1-A16 listed on the attached Forms PTO-1449 for consideration by the Examiner. Also submitted are the corresponding Information Disclosure Statement and Examiner-Initialled PTO Form 1449. In accordance with 37 C.F.R. 1.98(d) copies of these references are not provided since they were previously cited by or submitted to the Office in prior pending United States Application Serial No. 08/842,956, which is being relied upon for an earlier filing date under 35 U.S.C. 120.

The filing of this Information Disclosure Statement does not constitute an admission that the information cited herein is, or is considered to be, material to patentability as defined in 37 C.F.R. 1.56(b). Further, Applicants reserve the right to contest that any of these references is prior art against the present application.

Applicants respectfully request that the Examiner review the entire disclosure of these documents and make them of record.

Respectfully submitted,


Vita G. Conforti
Registration No. 39,639
Attorney for Applicants

Dated: September 30, 1999

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610
312/321-4200

FORM PTO-1449	SERIAL NO. Not Yet Assigned	CASE NO. 6298/308
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT	FILING DATE Herewith	GROUP ART UNIT 3761
(use several sheets if necessary)	APPLICANTS: FOLEY, Martin P. and MORTON, Robert	

REFERENCE DESIGNATION

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS/ SUBCLASS	FILING DATE
	A1	374,831	12/1887	Harrington		
	A2	440,713	11/1890	Krohne et al.		
	A3	1,695,170	12/1928	Burdick		
	A4	1,998,327	04/1935	McGuire		
	A5	2,164,330	07/1939	Katz et al.		
	A6	2,381,568	08/1945	Booharin		
	A7	2,432,946	12/1947	Theunissen		
	A8	2,848,994	08/1958	Aguado		
	A9	2,931,356	04/1960	Schwartz		
	A10	2,985,169	05/1961	Elling		
	A11	4,470,412	09/1984	Nowacki et al.		
	A12	4,809,692	03/1989	Nowacki et al.		
	A13	4,832,015	05/1989	Nowacki et al.		
	A14	4,885,027	09/1989	Laanen et al.		
	A15	5,012,803	05/1991	Foley et al.		
	A16	5,109,839	05/1992	Blasdell et al.		

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS/ SUBCLASS	TRANSLATION YES NO

EXAMINER INITIAL	OTHER ART (Including Author, Title, Date, Pertinent Pages, etc.)

EXAMINER	DATE CONSIDERED
----------	-----------------

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Rev. Nov. 98

F:\COMMON\VGCV\RUDELL MEDICAL\US Cases\308 - 1449.doc

#12
JH

I hereby certify that this correspondence is being
transmitted by facsimile to the Assistant
Commissioner for Patents, Washington, D.C.
20231, on October 14, 1998.

Frank J. Kozak, Registration No. 32,908

Name of applicant, assignee or
Registered Representative

Signature

October 14, 1998

Date of Signature

Case No. 6298/226

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

MARTIN P. FOLEY
ROBERT MORTON

Group Art Unit: 3735

Serial No: 08/842,956

Examiner: K. Asher

Filed: April 25, 1997

For: EXHALATION VALVE
FOR FACE MASK WITH
SPACER CHAMBER
CONNECTION (as
amended)

INFORMATION DISCLOSURE STATEMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

Pursuant to the obligation under 37 C.F.R. § 1.56 and in conformance with
37 C.F.R. §§ 1.97-1.99, Applicant hereby submits the following references for
consideration by the Examiner. Copies have been enclosed along with the form
PTO-1449.

Case No. 6298/226

Except for the following reference, all the references listed on the enclosed form PTO-1449 were previously cited or submitted in the prior application 08/270,752 or 07/973,280 to which Applicant claims priority under 35 U.C.S. '120, and therefore copies of these previously cited or submitted references are not provided in this application as permitted by 37 C.F.R. § 1.98(d).

U.S. PATENT NO.**PATENTEE****ISSUED**

4,470,412

Nowacki et al.

September, 1984

EXPLANATION OF THE REFERENCES

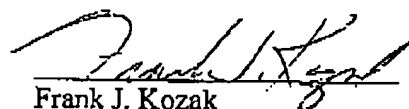
The fee for consideration of this information disclosure statement as required by 37 C.F.R. 1.97 (c) or (d) is enclosed herein.

Applicant requests to have these references included in the record of this application. Applicant further requests that the Examiner review the entire disclosure of each reference. It is believed that none of these references, alone or in proper combination, discloses or suggests the subject matter claimed by Applicant.

Case No. 6298/226

Applicant does not represent any of these references to be prior art and
Applicant reserves the right to disqualify any reference by the showing of an earlier
date of invention, if appropriate.

Respectfully submitted,

Dated: October 14, 1998

Frank J. Kozak
Registration No. 32,908
Attorney for Applicant

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610
(312) 321-4200

Rev. Oct-97
6298/218 101498 Not. of Appeal



FORM PTO-1449	SERIAL NO. 08/842,956	CASE NO. 6298/226
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT	FILING DATE April 25, 1997	GROUP ART UNIT 3735
(use several sheets if necessary)		APPLICANT(S): FOLEY, et al.

REFERENCE DESIGNATION U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS/ SUBCLASS	FILING DATE
	A1	374,831	12/1887	Herrington	
	A2	440,743	11/1890	Krohne et al.	
	A3	1,095,170	12/1928	Burdick	
	A4	1,998,327	4/1935	McGuire	
	A5	2,164,330	7/1939	Katz et al.	
	A6	2,381,568	8/1945	Bocharin	
	A7	2,432,946	12/1947	Theunissen	
	A8	2,848,994	8/1958	Aguado	
	A9	2,931,356	4/1960	Schwartz	
	A10	2,985,109	5/1961	Eiling	
	A11	4,470,412	9/1984	Nowacki et al.	
	A12	4,809,692	3/1989	Nowacki et al.	
	A13	4,832,015	5/1989	Nowacki et al.	
	A14	4,865,027	9/1989	Laanen et al.	
	A15	5,012,803	5/1991	Foley et al.	
	A16	5,109,839	5/1992	Blasdel et al.	

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	COUNTRY	CLASS/ SUBCLASS	TRANSLATION YES NO
	A17				
	A18				
	A19				
	A20				
	A21				

EXAMINER INITIAL	OTHER ART (Including Author, Title, Date, Pertinent Pages, etc.)
	A22
	A23
	A24
	A25
	A26
	A27

EXAMINER <i>W. Asher</i>	DATE CONSIDERED 12/31/98
-----------------------------	-----------------------------

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Rev. Oct. 97

\\BHGL_1\SYSTEMS\HOME\SPAGE\FRANK J. KOZAK\PTO PROSECUTION\6298-226 Form 1449.doc

Case No. 6298/308
Applicant

Case No. 6298/308

Continuation Application of 08/842,956

Applicant: FOLEY et al.

Date of Mailing: September 30, 1999

Assistant Commissioner for Patents
Washington, D.C. 20202-3513

Please acknowledge receipt of the below-identified:

Continuation Transmittal Letter (in duplicate); copy of U.S. Application Serial No. 08/842,956 (21 pages); two (2) sheets of drawings (Figs. 1-12); copy of Declarations; Information Disclosure Statement; PTO Form 1449, copies of previously-filed IDS and Examiner-Initiated PTO Form 1449; Preliminary Amendment; and check in the amount of \$1,372.00 for filing fee.

BRINKS HOFER GILSON & LIONE
Vita G. Conforti, Reg. No. 39,639

10675 U.S. PTO
09/409792
09/30/99

TRANSMITTAL LETTER			Case No. 6298/308
Serial No. 09/409,792	Filing Date September 30, 1999	Examiner A. Lewis	Group Art Unit 3735
Inventor(s) M. Foley et al.			
Title of Invention Exhalation Valve For Face Mask With Spacer Chamber Connection			

TO THE COMMISSIONER FOR PATENTS

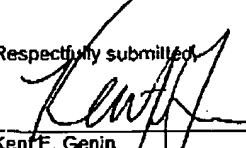
Transmitted herewith is Transmittal Letter (in duplicate); Fourth Supplemental Information Disclosure Statement; PTO Form 1449; One Copy of References E1-E2.

- ☐ Small entity status of this application under 37 CFR § 1.27 has been established by verified statement previously submitted.
- ☐ Applicant claims small entity status. See 37 CFR 1.27.
- ☐ Petition for a _____ month extension of time.
- ☐ No additional fee is required.
- ☐ The fee has been calculated as shown below:

					Small Entity		or	Other Than Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee		Rate	Add'l Fee
Total		Minus			x \$9=			x \$18=	
Indep.		Minus			x 43=			x \$86=	
First Presentation of Multiple Dep. Claim					+\$145=			+\$290=	
					Total add'l fee	\$		Total add'l fee	\$

- ☐ Please charge Deposit Account No. 23-1925 (BRINKS HOFER GILSON & LIONE) in the amount of \$_____. A duplicate copy of this sheet is enclosed.
- ☐ A check in the amount of \$_____ to cover the filing fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this communication or credit any overpayment to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.
- ☒ I hereby petition under 37 CFR § 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

Respectfully submitted,


 Kent E. Genin
 Registration No. 37,834
 Attorney for Applicant
 Customer No. 00757 - Brinks Hofer Gilson Lione

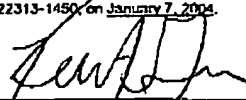
BRINKS HOFER GILSON & LIONE
 P.O. BOX 10395
 CHICAGO, ILLINOIS 60610
 (312) 321-4200

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to:
 Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 7, 2004.

Date:

January 7, 2004

Signature:



CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope, with sufficient postage, addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

January 7, 2004

Date of Deposit

Kent E. Genin

Name of Applicant, Assignee or
Registered Representative

Kent E. Genin

Signature

January 7, 2004

Date of Signature

Our Case No.: 6298/308

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

M. Foley et al.

Serial No.: 09/409,792

Filing Date: September 30, 1999

For: EXHALATION VALVE FOR FACE
MASK WITH SPACER CHAMBER

Examiner: A. Lewis

Group Art Unit No.: 3735

FOURTH SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
Alexandria, VA 22313-1450

Dear Sir:

In compliance with the duty of disclosure under 37 C.F.R. § 1.56, it is respectfully requested that this Fourth Supplemental Information Disclosure Statement be entered and the documents listed below and on the attached Form PTO-1449 be considered by the Examiner and made of record. Copies of the listed documents required by 37 C.F.R. § 1.98(a)(2) are enclosed for the convenience of the Examiner.

The references now cited are the following:

U.S. PATENTS

<u>Patent No.</u>	<u>Date</u>	<u>Inventor</u>
4,016,878	04/12/77	Castel et al.

FOREIGN DOCUMENTS

<u>Document No.</u>	<u>Date</u>	<u>Country</u>
EP 0 139 363 A1	05/02/85	Europe

In accordance with 37 C.F.R. § 1.97(g),(h), this Fourth Supplemental Information Disclosure Statement is not to be construed as a representation that a search has been made and is not to be construed to be an admission that the information cited is, or is considered to be, material to patentability as defined in 37 C.F.R. § 1.56(b).

This Fourth Supplemental Information Disclosure Statement is being filed prior to the receipt of the first Official Action reflecting an examination on the merits and hence is believed to be timely filed in accordance with 37 C.F.R. § 1.97(b). No fees are believed to be due in connection with filing of this Fourth Supplemental Information Disclosure Statement, however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be deemed necessary for any reason relating to this material, the Commissioner is hereby authorized to deduct said fees from Brinks Hofer Gilson & Lione Deposit Account No. 23-1925. A duplicate copy of this document is enclosed.

Applicant(s) respectfully request that the listed documents be made of record in the present case.

Respectfully submitted,



Kent E. Genin

Registration No. 37,834

Attorney for Applicant(s)

BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610
(312) 321-4200

FORM PTO-1449	SERIAL NO. 09/409,792	CASE NO. 6298/308
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT (use several sheets if necessary)	FILING DATE September 30, 1999	GROUP ART UNIT 3735
APPLICANT(S): M. Foley et al.		

REFERENCE DESIGNATION U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER <small>Number-Kind Code (if known)</small>	DATE	NAME	CLASS/ SUBCLASS	FILING DATE
E1	4,016,878	04/12/77	Castel et al.		

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER <small>Number-Kind Code (if known)</small>	DATE	COUNTRY	CLASS/ SUBCLASS	TRANSLATION YES OR NO
E2	EP 0 139 363 A1	05/02/85	Europe		

EXAMINER	DATE CONSIDERED
----------	-----------------

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Rev. Dec.-99

\\Bhglmain3\common\keg\Trudell 6298\6298-308 CON 3 Exhalation Valve\6298-308 PTO 1449.3.doc

Serial No. 09/409,792
Applicant: M. FOLEY ET AL.
Client/Matter No.: 6298/308

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450



Please acknowledge receipt of the below identified:

Items Mailed: Transmittal Letter (in duplicate); Fourth Supplemental
Information Disclosure Statement; PTO Form 1449; One copy of References
E1-E2.

BRINKS HOFER GILSON & LIONE

By: Kent E. Genin, Reg. No. 37,834

Date of Mailing: January 7, 2004